

AGREEMENT TO SERVE ON A COPYRIGHT ARBITRATION ROYALTY PANEL

This agreement, by and between, Jeffrey S. Gulin and the Librarian of Congress sets out the following terms and conditions which constitute an appointment by The Librarian of Congress (The Librarian) to serve on a Copyright Arbitration Royalty Panel (CARP) pursuant to the authority of the Copyright Royalty Tribunal Reform Act of 1993, P.L. 103-198 (the Act), and the Copyright Office regulations governing the rules and procedures of the CARPs, 37 CFR Chapter II, Subchapter B, (the regulations). The date of The Librarian's letter accompanying this agreement establishes the date of selection.

TERMS

1. Qualifications

- (a) A qualified Arbitrator will: 1) be admitted to the practice of law; 2) have ten or more years of experience in legal practice; and 3) have experience in conducting arbitration proceedings and facilitating the resolution and settlement of disputes.

2. Standards of Conduct

- (a) The Arbitrator will comply with the provisions of 17 U.S.C. Chapter 8, as amended by the Act, and Subpart D, Standards of Conduct, of the regulations.

3. Financial Disclosure

- (a) Within 1 week of the selection of the CARP panel, the Arbitrator will file an updated financial disclosure statement with The Librarian or, if there are no changes in the Arbitrator's financial interests, a statement to that effect. All original or updated financial information will be considered confidential. The Arbitrator will mark his/her revised statement confidential and send it to: Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024; or, if hand delivered, direct it to: CARP Financial Disclosure Committee, Library of Congress, LM-601, James Madison Memorial Building, 101 Independence Avenue, S.E., Washington, D.C. 20540.

4. Period of Performance

- (a) The period of performance will begin upon execution of this contract and extend for a period not to exceed 180 days from the date of publication in the Federal Register of the notice commencing the proceeding.
- (b) An additional period of performance will be required should any appeal of a panel's decision result in a court-ordered remand, and The Librarian of Congress chooses to: 1) reconvene the original panel, if available, for a term not to exceed an additional 180 days; or 2) requests your participation on a new panel composed of a combination of new and original Arbitrators.

5. Tasks

- (a) The Arbitrator will serve on a three-member arbitration panel to determine the rates for the use of certain copyrighted works by noncommercial entities, pursuant to 17 U.S.C. 118.
- (b) This panel will conduct its hearings and be governed by the rules found in the regulations.
- (c) The Arbitrator will personally perform his or her own work tasks, e.g., research, analysis of the record, and decision-writing.
- (d) Pursuant to §251.6(b)(c), the initial two Arbitrators chosen by the Librarian will select, within 10 days of accepting their appointment, a third Arbitrator from The Librarian's list of eligible Arbitrators to serve as the Chairperson of the panel. If the two selected Arbitrators cannot reach agreement on the selection of the third panel member during this 10 day period, they will inform The Librarian no later than the close of the next business day, and The Librarian will select the Chairperson.
- (e) The Chairperson will deliver a copy of the final written report to all parties participating in the proceeding.

6. Government Furnished Support

- (a) The Arbitrator may use the facilities of the Library of Congress and the Copyright Office Monday through Friday from 8:30 a.m. until 9:30 p.m.
- (b) The Copyright Office of the Library of Congress will provide an identification card; office space with an individual workstation for the Arbitrator; clerical support including typing, word processing, photocopying; and access to files of prior proceedings subject to Copyright Office procedures.
- (c) The Copyright Office will provide a hearing room and arrange for transcription services.
- (d) The Copyright Office will provide an orientation session, not to exceed two hours, for the Arbitrator at the commencement of the proceedings.

7. Copyright Office Liaison

- (a) The CARP Specialist will serve as the liaison to the panel for logistics and general support matters, and a designee of the Copyright General Counsel will monitor performance in accordance with the terms, conditions, and specifications of this agreement.

8. Deliverables

- (a) Each month, the Chairperson will provide the Copyright Office an itemized invoice

which includes a breakdown of all charges corresponding to the work tasks performed during each hour or day.

- (b) No later than 180 days from publication in the Federal Register of notification of the commencement of the proceeding, the Chairperson will submit a written report to The Librarian. The report will include an examination of the evidence, including findings of fact, and an articulation of a satisfactory explanation for the Panel's action. The explanation must delineate a rational connection between the findings of fact and the panel's ultimate determination. The written record of the proceedings, including the official transcript, pleadings, exhibits, and direct and rebuttal cases, will accompany the report.

9. Invoicing

- (a) The participating parties, i.e., those who filed a Notice of Intent to Participate in the applicable proceeding, are responsible for all compensation for the Arbitrator's services for ordinary and necessary costs in accordance with 17 USC 802(c). Accordingly, the Arbitrator will submit to the Chairperson a detailed monthly invoice which includes a breakdown of all charges corresponding to the work tasks performed during each hour or day. Work performed by another person on behalf of the Arbitrator will not be included on the invoice.
- (b) Fees will be determined in the following manner:
 - (1) In accordance with §251.38 of the regulations, the Arbitrator is bound to the hourly or daily fee initially submitted by the Arbitrator and accepted by The Librarian. Under this agreement, the fee which you initially submitted and herein accepted by the Librarian of Congress is \$200.00 per hour.
 - (2) If the Librarian requests additional service under subsection 4(b) above, the fee quoted in this subsection, 9(b)(1), will be adjusted in direct proportion to the percent change in the Consumer Price Index (CPI) for each intervening year between the termination of initial service and the reactivation of service for consideration of a court ordered remand.
- (c) No participating party will be charged for any other costs except for necessary travel and/or subsistence if the Arbitrator's residence is located outside the Washington metropolitan area. These expenses will be reimbursed at the rates prescribed by the General Services Administration in the Federal Travel Regulations; currently, \$124.00/per diem for lodging, and \$42.00/per diem for meals.
- (d) The Chairperson will deliver directly to each participating party, in accordance with §251.54(b) of the regulation, each party's responsibility for the total costs in direct proportion to their share of the distribution and the amount owed to the Arbitrator.

10. Payment

- (a) **Participating parties are responsible for payment.** Payment will be made by money order, check, or bank draft by each participating party within 30 days of receipt of invoice statements.
- (b) Final payment will be made upon acceptance of the report by the Librarian.

11. Termination

- (a) The Librarian may terminate this agreement for nonperformance or noncompliance with any of the regulations relative to the proper and ethical performance of specified duties of the Arbitrator.
- (b) If this agreement is terminated, the Arbitrator understands and agrees that the participating parties will be liable only for payment for services rendered prior to the effective date of termination.

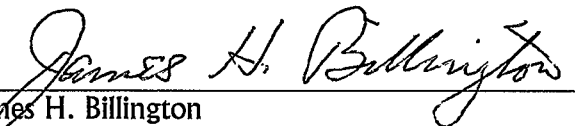
12. Complete Agreement


- (a) This agreement constitutes the complete and exclusive statement of the agreement between The Librarian and the Arbitrator relating to the subject matter hereof. This agreement supersedes all proposals or other prior agreements, oral or written, and all other communications between the parties relating to the subject matter hereof.

13. Governing Law

- (a) The validity, construction, and performance of all parts of this agreement will be governed by the law of the District of Columbia, without regards to its principles of conflicts of laws.

Signing this agreement will indicate acceptance of the above conditions.

 DATE: 12/1/97
James H. Billington
The Librarian of Congress

AGREED:  DATE: 12/3/97
Name: JEFFREY S. GULIN
Address: 3305 KEYSER ROAD
BALTIMORE, MD 21208



January 9, 1998

LIBRARY
OF
CONGRESS

Re: Adjustment of the Rates for Noncommercial Educational
Broadcasting Compulsory License, Docket No. 96-6 CARP
NCBRA

Dear Judge Gulin:

Enclosed please find a fully executed copy of the agreement between you and
the Librarian of Congress for your service on the Copyright Arbitration Royalty Panel
(CARP) for the above-captioned action.

P.O. Box 70977
Southwest
Station
Washington
D.C. 20024

Very truly yours,

A handwritten signature in cursive script that reads "Gina L. Giuffreda".

Gina L. Giuffreda
Copyright Arbitration Royalty
Panel Specialist

Enclosure

The Honorable Jeffrey S. Gulin
3305 Keyser Road
Baltimore, Maryland 21208

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OFFICE

Copyright
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Royalty
Panels



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Very truly yours,

Gina L. Giuffreda
Copyright Arbitration Royalty
Panel Specialist

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The Honorable Jeffrey S. Gulin
3305 Keyser Road
Baltimore, Maryland 21208